

## REMARKS

This Amendment is submitted in reply to the non-final Office Action mailed on September 13, 2006. No fee is due in connection with this Amendment. The Director is authorized to charge any fees which may be required, or to credit any overpayment to Deposit Account No. 02-1818. If such a withdrawal is made, please indicate the Attorney Docket No. 115808-338 on the account statement.

Claims 1, 4, 6, 8, 10, 12-13, 15-17, 19-24 and 30-33 are pending in this application. Claims 2-3, 5, 7, 9, 11, 14, 18 and 25-29 were previously canceled. In the Office Action, Claim 32 is rejected under 35 U.S.C. § 112; Claims 1, 4, 6, 10, 12-13, 15-16 and 19-24 are rejected under 35 U.S.C. §102; and Claims 1, 4, 6, 8, 10, 12-13, 15-17, 19-24 and 30-33 are rejected under 35 U.S.C. §103. In response Claims 1, 6, 13, 20-24 and 30-32 have been amended. These amendments do not add new matter. In view of the amendments and/or for the reasons set forth below, Applicant respectfully submits that the rejections should be withdrawn.

In the Office Action, Claim 32 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In response, Claim 32 has been amended to recite, in part, a method of manufacturing a pet food wherein a pet food composition includes chicory. This amendment is supported in the specification at, for example, page 6, lines 23-28 and at page 7, lines 14-17. Based on at least these noted reasons, Applicants believe that Claim 32 fully complies with 35 U.S.C. §112, second paragraph.

Accordingly, Applicant respectfully request that the rejection of Claim 32 under 35 U.S.C. §112 be withdrawn.

In the Office Action, Claims 1, 4, 6, 10, 12-13, 15-16 and 19-24 are rejected under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 6,156,355 to Shields ("*Shields*"). Applicant respectfully disagrees with and traverses this rejection for at least the reasons set forth below.

Applicant has amended independent Claims 1, 6, 13, 20-24 and 30-31 to recite, in part, a nutritional agent comprising a prebiotic that comprises about 0.1% to about 20% by weight of a food composition, a probiotic micro-organism that comprises about 0.5% to about 20% by weight of a food composition, and a long-chain fatty acid. The amendment is supported in the

specification at, for example, page 6, lines 23-34. In contrast, *Shields* fails to disclose or suggest every element of the present claims as currently amended.

*Shields* fails to disclose or suggest a nutritional agent including a prebiotic that comprises about 0.1% to about 20% by weight of a food composition, a probiotic micro-organism that comprises about 0.5% to about 20% by weight of a food composition, and a long-chain fatty acid as required, in part, by the present claims. Moreover, the claimed methods are directed to improving or maintaining the skin and coat system of a pet in need of such treatment. As a result, the methods require, in part, feeding or administering a nutritional composition to a pet having skin or coat system deficiencies in accordance with the present claims. At no point does *Shields* disclose or even recognize any methods of feeding or administering compositions to a pet suffering from skin or coat system deficiencies. In fact, *Shields* specifically states that the disclosed diets are "preventative rather than therapeutic in nature" and that "there is little harm if animals are not fed the recommended diet." *Shields*, column 7, lines 52-55. For the reasons discussed above, Applicant respectfully submits that Claims 1, 4, 6, 10, 12-13, 15-16, 19-24 and 30-32 are novel, nonobvious and distinguishable from the cited reference.

Accordingly, Applicant respectfully requests that the rejection of Claims 1, 4, 6, 10, 12-13, 15-16, 19-24 and 30-32 under 35 U.S.C. §102 be withdrawn.

In the Office Action, Claims 1, 4, 6, 8, 10, 12-13, 15-17, 19-24 and 30-33 are rejected under 35 U.S.C. §103(a) as being unpatentable over *LOWE '88* in view of *WO 9856263* to Marsh et al. ("*Marsh*"), *Shields, LABDIET '98*, U.S. Patent No. 5,756,088 to Matsuura et al. ("*Matsuura*"), and *EP 0862863* to Cavadini et al. ("*Cavadini*"). Applicant believes this rejection is improper and respectfully traverses it for at least the reasons set forth below.

Applicant respectfully submits that, even if combinable, all of the claimed elements are not taught or suggested by the cited references. For example, *LOWE '88*, *Marsh*, *Shields*, *LABDIET '98*, *Matsuura* and *Cavadini* all fail to disclose or suggest Applicant's claimed methods comprising the step of administering a nutritional agent including a prebiotic that comprises about 0.1% to about 20% by weight of a food composition, a probiotic micro-organism that comprises about 0.5% to about 20% by weight of a food composition, and a long-chain fatty acid as required, in part, by the present claims.

Moreover, *LOWE '88, Marsh, Shields, LABDIET '98, Matsuura* and *Cavadini* are not even concerned with any methods for improving or maintaining the skin and coat system of a pet in need of same using a nutritional agent that comprises a prebiotic that comprises about 0.1% to about 20% by weight of a food composition, a probiotic micro-organism that comprises about 0.5% to about 20% by weight of a food composition, and long-chain fatty acids as taught by Applicant. *LOWE '88, Marsh, Shields, LABDIET '98, Matsuura* and *Cavadini* fail to recognize a problem that Applicant's invention solves or advantages that Applicant's invention has. In fact, the Patent Office has failed to show any evidence in the cited references regarding improving or maintaining the skin and coat system of a pet in need of same or the step of feeding or administering to the pet a nutritional composition including a prebiotic, a probiotic micro-organism and a long-chain fatty acid for improving or maintaining the skin and coat system. *Reinhart, LABDIET '98, Marsh* and *Shields* also provide no teaching, guidance or experiments as to methods for improving or maintaining the skin and coat system of a pet using a nutritional agent including a prebiotic that comprises about 0.1% to about 20% by weight of a food composition, a probiotic micro-organism that comprises about 0.5% to about 20% by weight of a food composition, and a long-chain fatty acid as Applicant has done. As a result, the cited references fail to achieve a reasonable expectation of success in accordance with the present claims.

For the reasons discussed above, the combination of *LOWE '88, Marsh, Shields, LABDIET '98, Matsuura*, and *Cavadini* does not teach, suggest, or even disclose all of the elements of the present claims, and thus, fails to render the claimed subject matter obvious.


Accordingly, Applicant respectfully requests that the obviousness rejection with respect to Claims 1, 4, 6, 8, 10, 12, 13, 15-17, 19-24 and 30-33 be reconsidered and the rejection be withdrawn.

For the foregoing reasons, Applicant respectfully requests reconsideration of the above-identified patent application and earnestly solicit an early allowance of same.

Respectfully submitted,

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BY



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